

EXHIBIT

“1”

CAUSE NO. _____

RAUL BALDERAS, FELIPA BALDERAS § IN THE DISTRICT COURT
AND NATALIE BALDERAS §

Plaintiffs, §

vs. § _____ JUDICIAL DISTRICT

ERIC THOMAS HEGUY, ANITA §
WASHINGTON, ELEAZAR LUNA §
GARCIA, DEAN WALKER HENRY, §
JR., and ALFREDO GOMEZ, §

Defendants. § MCLENNAN COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

Plaintiffs Raul Balderas, Felipa Balderas and Natalie Balderas ("Plaintiffs") file this Original Petition complaining of Defendants Eric Thomas Heguy, Anita Washington, Eleazear Luna Garcia, Dean Walker Henry, Jr., and Alfredo Gomez ("Defendants") and for cause of action states the following:

DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure, Plaintiffs state that discovery in this cause is intended to be conducted under Level 3.

JURY DEMAND

2. Pursuant to Rules 216 and 217 of the Texas Rules of Civil Procedure, Plaintiff requests a jury trial of this matter. Accordingly, Plaintiffs tender the proper jury fee with the filing of Plaintiffs' Original Petition.

PARTIES

3. Plaintiff Raul Balderas is an individual residing in Dallas County, Texas. The last three

digits of his driver's license are 538 and the last three digits of his social security number are 945.

4. Plaintiff Felipa Balderas is an individual residing in Dallas County, Texas. The last three digits of her driver's license are 639 and the last three digits of her social security number are 788.
5. Plaintiff Natalie Balderas is an individual residing in Dallas County, Texas. The Last three of her driver's license are 110 and the last three digits of her social security number are 267.
6. Defendant Eric Thomas Heguy is an individual who resides and may be served at 1311 Summit Bluff, San Antonio, TX 78258. ISSUANCE OF CITATION REQUESTED.
7. Defendant Anita Washington is an individual who resides and may be served at 12625 William Harrison St., Manor, TX 78653. ISSUANCE OF CITATION IS REQUESTED.
8. Defendant Eleazar Luna Garcia is an individual who resides and may be served at 4604 Gila Bend Ln., Ft. Worth, TX 76137. ISSUANCE OF CITATION IS REQUESTED.
9. Defendant Dean Walker Henry, Jr., is an individual who resides and may be served at 1915 Spring Dr., Keller, TX 76262. ISSUANCE OF CITATION IS REQUESTED.
10. Defendant Alfredo Gomez is an individual who resides and may be served at 34655 FM 2480, Los Fresnos, TX 78566. ISSUANCE OF CITATION IS REQUESTED.

VENUE AND JURISDICTION

11. Venue is proper in this Court by virtue of Tex. Civ. Prac. & Rem. Code §15.002(a). Furthermore, this Court has jurisdiction in that the damages being sought are within the jurisdictional limits of this Court.

FACTS

12. This lawsuit is based on a motor vehicular collision occurring on or about 1/05/2019, at or near the 400 BLK N IH 35 in Waco, TX (hereinafter referred to as "The Collision").
13. The Collision was proximately caused by the negligence and / or negligence *per se* of Defendants.

CAUSES OF ACTION

Negligence and / or Negligence *Per Se*

14. At the time of The Collision, all Defendants were negligent and / or negligent *per se* in one or more of the following particulars:
 - a. In failing to keep such a lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
 - b. In failing to timely apply the brakes of his vehicle in order to avoid the collision in question;
 - c. In violating Texas Transportation Code Section 545.351 (In driving a vehicle at a rate of speed which was greater than that which an ordinarily prudent person would have driven under the same or similar circumstances);
 - d. In violating Texas Transportation Code Section 545.351 (shall control the speed of the vehicle as necessary to avoid colliding with another person or vehicle that is on or entering the highway in compliance with law and the duty of each person to use due care);
 - e. In disregarding traffic signals;
 - f. In failing to take proper evasive action;
 - g. In driving while inattentive;
 - h. In driving while looking at his cell phone, texting, emailing, or otherwise using a cellular device which diverted his attention from the road in front of him; and
 - i. In violating Texas Transportation Code Section 545.4251 (use of portable wireless communication device for electronic messaging).
 - j. In violating Texas Transportation Code Section 545.062 ((a) An operator shall, if following another vehicle, maintain an assured clear distance between the two vehicles so that, considering the speed of the vehicles, traffic, and the conditions of the highway, the operator can safely stop without colliding with the preceding vehicle or veering into another vehicle, object, or person on or near the highway.)

15. Each of the foregoing acts or omissions, singularly or in combination with others, constituted negligence and / or negligence *per se*, which proximately caused The Collision and Plaintiff's injuries and damages.

PERSONAL INJURIES AND DAMAGES

16. As a result of Defendants negligent actions, Plaintiffs Raul Balderas, Felipa Balderas and Natalie Balderas suffered personal injuries. Consequently, Raul Balderas, Felipa Balderas and Natalie Balderas seeks recovery of the following damages:
 - a. Medical Expenses: Raul Balderas, Felipa Balderas and Natalie Balderas incurred bodily injuries which were caused by The Collision and Raul Balderas, Felipa Balderas and Natalie Balderas incurred medical expenses for treatment of such injuries. Raul Balderas, Felipa Balderas and Natalie Balderas believe that, in reasonable medical probability such injuries will require the need for future medical care.
 - b. Physical Pain: Raul Balderas, Felipa Balderas and Natalie Balderas endured physical pain as a result of the personal injuries sustained in The Collision and reasonably anticipate such pain will continue in the future.
 - c. Mental Anguish: Raul Balderas, Felipa Balderas and Natalie Balderas endured mental anguish as a result of the personal injuries sustained in The Collision and reasonably anticipate such mental anguish will continue in the future.
 - d. Disfigurement: Raul Balderas, Felipa Balderas and Natalie Balderas endured disfigurement as a result of the personal injuries sustained in The Collision and reasonably anticipate such will continue in the future.
 - e. Impairment: Raul Balderas, Felipa Balderas and Natalie Balderas endured physical impairment as a result of the personal injuries sustained in The Collision and reasonably anticipate such in the future.
 - f. Loss of Earning Capacity: Raul Balderas, Felipa Balderas and Natalie Balderas lost wages as a result of the personal injuries sustained in The Collision. Raul Balderas, Felipa Balderas and Natalie Balderas reasonably believe that such injuries will diminish Raul Balderas, Felipa Balderas and Natalie Balderas' earning capacity in the future.

AGGRAVATION

17. In the alternative, if it be shown that Plaintiffs suffered from any pre-existing injury, disease and/or condition at the time of the incident made the basis of the lawsuit, then such injury, disease and/or condition were aggravated and/or exacerbated by the negligence of Defendants.

PROPERTY DAMAGE

18. As a proximate result of the above-detailed conduct on the part of the Defendants, the vehicle Plaintiffs were in at the time of the collision was damaged in an amount in excess of the jurisdictional limits of this Court, for which the Defendants are hereby sued and recovery is sought.

U.S. LIFE TABLES

19. Notice is hereby given to the Defendants that Plaintiffs intend to use the U. S. Life Tables as published by the Department of Health and Human Services - National Vital Statistics Report in the trial of this matter. Plaintiffs request that this Honorable Court take judicial notice of those rules, regulations, and statutes of the United States and the State of Texas, pursuant to Texas Rule of Evidence 201 and 1005.

REQUEST FOR DISCLOSURE

20. Pursuant to Texas Rule of Civil Procedure 194, Defendants are requested to disclose their information or material described in Rule 194.2.

RELIEF SOUGHT

21. Pursuant to Texas Rules of Civil Procedure 193.7, notice is hereby given of the intention to use any of the documents exchanged and/or produced between any party during the trial of this case. All conditions precedent to Plaintiffs' right to recover the relief sought herein have occurred or have been performed.

22. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiffs state that the damages

sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiffs state that Plaintiffs seek monetary relief in excess of \$250,000, but less than \$1,000,000. As discovery takes place and testimony is given, Plaintiffs will be in a better position to give the maximum amount of damages sought.

23. Plaintiffs request that Defendant be cited to appear and answer, and that this case be tried after which Plaintiff recover:

- a. Judgment against Defendants for a sum within the jurisdictional limits of this Court for the damages set forth herein;
- b. Pre-judgment interest at the maximum amount allowed by law;
- c. Post-judgment interest at the maximum rate allowed by law;
- d. Costs of suit; and
- e. Such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

Rolando De La Garza
ROLANDO DE LA GARZA
Texas Bar No. 24097579
E-mail: rolando@cainfirm.com
E-Service: eservice@cainfirm.com

THE CAIN LAW FIRM, P.C.
7929 Brookriver Dr.
Suite 770
Dallas, Texas 75247
Telephone: (817) 573-4300
Facsimile: (817) 573-4848

/s/ R. Steven Chandler
R. STEVEN CHANDLER
Texas Bar No. 24103605
E-Mail: steve@cainfirm.com
E-Service: Eservice@cainfirm.com
The Cain Law Firm, P.C.
111 S. Houston Street

Granbury, Texas 76048
Telephone: (817) 573-4300
Facsimile: (817) 573-4848

ATTORNEYS FOR PLAINTIFF